REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed January 12, 2006. At the time of the Office Action, Claims 3, 5-6, 8-9, 11-12, 14-15, 17-19, 21-29, and 31-39 were pending in the Application. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 103 Rejection

The Examiner rejects Claims 3, 5-6, 8-9, 11-12, 14-15, and 17-19 under 35 U.S.C. §103(a), as being unpatentable over Japan No. JP02000209298A issued to Marinho, et al. (hereinafter "*Marinho*") in view of U.S. Publication No. 2002/0024964 issued to Baum et al. (hereinafter "*Baum*") and U.S. Publication No. 2002//0194251 issued to Richter et al. (hereinafter "*Richter*"). "To establish a *prima facie* case of obviousness, . . . [f]irst, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." M.P.E.P. § 2143.

Applicant respectfully submits that the Examiner does not present any of the requirements to support the rejections under 35 U.S.C. § 103(a). For example, the combination of references fails to disclose, teach, or suggest each limitation recited in Applicant's claims. The Examiner relies on *Richter* to teach claim limitations not taught by *Marinho* in view of *Baum*. However, *Richter*, for example, also does not disclose, teach, or suggest "identifying a congested CoS in a sector of a wireless network, wherein the congested CoS is identified based on at least one of the following: dropped packets, a floating average of a queue size, and a current queue size for the CoS in the sector." Instead, *Richter* teaches processing "each new client/user request **1900** for information management . . . using arrival shaping policy." p. 45, ¶ 364. The "arrival shaping policy **2000** of **FIG. 10** may be implemented, for example, using one or more arrival shaping techniques such as waiting queues, weighted-round-robin scheduling, arrival rate control, and/or selective dropping of new requests." p. 45, ¶ 366. Therefore, *Marinho*, *Baum*, and *Richter*, alone or in combination, fail to disclose, teach, or suggest at least this limitation. Accordingly, Applicant

respectfully requests reconsideration and allowance of independent Claim 5 and its dependents.

Independent Claims 11, 17, and 19 each recite certain limitations that, for reasons substantially similar to those discussed with reference to independent Claim 1, *Marinho*, *Baum*, and *Richter*, alone or in combination, do not disclose, teach, or suggest. Therefore, Applicant respectfully requests reconsideration and allowance of independent Claims 11, 17, and 19 together with their dependents.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's allowance of Claims 21-29 and 31-39 *Office Action*, p.4. Applicant has shown all pending claims to be allowable and respectfully requests reconsideration and allowance of the pending claims.
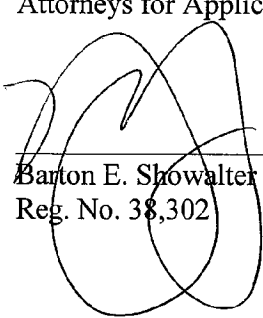
CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicants respectfully request reconsideration and allowance of the pending claims.

Applicants believe no fee is due. However, if this is not the case, the Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicants invite the Examiner to contact its attorney, Barton E. Showalter, at (214) 953-6509.

Respectfully submitted,
BAKER BOTTS L.L.P.
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Date: _April 10_, 2006

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